

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 19 SEP 2005

WIPO

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Applicant's or agent's file reference 1190.561WO1		FOR FURTHER ACTION	See Form PCT/IPEA/416																								
International application No. PCT/US04/26133		International filing date (<i>day/month/year</i>) 12 August 2004 (12.08.2004)	Priority date (<i>day/month/year</i>) 13 August 2003 (13.08.2003)																								
International Patent Classification (IPC) or national classification and IPC IPC(7): C08J 3/00; C08K 3/20; C08L 75/00; C08F 8/30, 283/04 and US Cl.: 524/507, 591, 839, 840; 525/123, 455																											
Applicant THE VALSPAR CORPORATION																											
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>1</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u> </u> sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) <u> </u>, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <table> <tbody> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </tbody> </table>				<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand 13 June 2005 (13.06.2005)		Date of completion of this report 24 August 2005 (24.08.2005)																									
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230		Authorized officer Patrick D. Niland  Telephone No. 703-308-0661																									

Box No. I Basis of the report**1. With regard to the language, this report is based on:**

- the international application in the language in which it was filed.
- a translation of the international application into _____, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4(a))
 - international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished

the description:

pages 1-21 as originally filed/furnished

pages* NONE received by this Authority on _____

pages* NONE received by this Authority on _____

the claims:

pages 22-27 as originally filed/furnished

pages* NONE as amended (together with any statement) under Article 19

pages* NONE received by this Authority on _____

pages* NONE received by this Authority on _____

the drawings:

pages NONE as originally filed/furnished

pages* NONE received by this Authority on _____

pages* NONE received by this Authority on _____

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____

the claims, Nos. _____

the drawings, sheets/figs _____

the sequence listing (*specify*): _____

any table(s) related to the sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____

the claims, Nos. _____

the drawings, sheets/figs _____

the sequence listing (*specify*): _____

any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US04/26133

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-33</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-33</u>	NO
Industrial Applicability (IA)	Claims <u>1-33</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and Explanations (Rule 70.7)

Claims 1-33 lack an inventive step under PCT Article 33(3) as being obvious over TOMKO in view of FLOYD et al..

TOMKO discloses the instantly claimed invention except for the instantly claimed VOC. See the entire document. It is noted that TOMKO does not disclose a reactant falling within the scope of that of the instant claim 3. However, since the claim is directed to the polyurethane of the claimed composition and the urethane contains a moiety meeting the requirements of claim 3 (e.g. a smaller portion of the urethane containing sulfonate and ethylenic groups as well as perhaps other urethane groups) and the skilled artisan could not tell how said moiety got there while looking only at the final urethane, the polyurethane of the patentee falls within the scope of the instant claim 3.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed VOC in preparing the product of TOMKO because such VOCs will meet current regulations regarding VOC, eliminate expensive and dangerous organic solvents, and are a well known expedient in the making of aqueous urethanes as taught by FLOYD et al. which would have been expected to give the benefits of low VOC to the dispersions of TOMKO.

Claims 1-33 meet the criteria set out under PCT Article 33(4) and thus Industrial Applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/26133

Supplemental Box Relating to Sequence Listing**Continuation of Box No. I, item 2:**

1. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this report was established on the basis of:

a. type of material

- a sequence listing
 table(s) related to the sequence listing

b. format of material

- on paper
 in electronic form

c. time of filing/furnishing

- contained in the international application as filed
 filed together with the international application in electronic form
 furnished subsequently to this Authority for the purposes of search and/or examination
 received by this Authority as an amendment* on _____

2. In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

3. Additional comments:

* If item 4 in Box No. I applies, the listing and/or table(s) related thereto, which form part of the basis of the report, may be marked "superseded."